



City of Marietta

Meeting Minutes

COMMITTEE OF THE WHOLE

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

William B. Dunaway, Mayor

Annette Paige Lewis, Ward 1

Grif Chalfant, Ward 2

Holly Marie Walquist, Ward 3

Irvan A. "Van" Pearlberg, Ward 4

Rev. Anthony Coleman, Ward 5

James W. King, Ward 6

Philip M. Goldstein, Ward 7

Monday, October 9, 2006

5:15 PM

4th Floor Conference Room

Presiding: William B. Dunaway

Present: Philip M. Goldstein, James W. King, Rev. Anthony Coleman, Holly Walquist, Griffin "Grif" L. Chalfant, Jr., Annette Lewis and Irvan A. "Van" Pearlberg

Also Present:

William F. Bruton, Jr. City Manager

Douglas Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor William B. Dunaway called the meeting to order at 5:13 p.m.

MINUTES:

20061017 Regular Meeting - September 11, 2006

Review and approval of the September 11, 2006 regular meeting minutes.

The September 11, 2006 regular meeting minutes were held until the next meeting

This matter was Held.

BUSINESS:

20061086 BLW Report

Report by Council member King of the BLW actions in their regular board meeting of October 9, 2006.

Council member King reported on the actions of the Board of Lights and Water at their October 9, 2006 regular meeting. Finance Director Monte Vavra reported on the BLW finance statements. (See the October 9, 2006 regular Board of Lights and Water meeting minutes for details.)

Discussion was held regarding BLW agenda item 20061110 that deals with the Municipal Competitive Trust. Council member King referred to the letter from the MEAG Board attorney in response to the BLW Board request for clarification of

Article 6A, Section 3 of the First Amendment to the Declaration of Trust the Municipal Competitive Trust. The Board Attorney, Kevin Moore, felt that the document adequately clarified this particular section of the agreement and the BLW Board recommended that Council approve the First Amendment to the Declaration of Trust the Municipal Competitive Trust.

Further discussion was held regarding the legality of the document and whether an actual amendment to the First Amendment to the Declaration of Trust the Municipal Competitive Trust would be more appropriate. City Attorney Douglas Haynie suggested that the original document be amended to include the language from the letter since the MEAG Board could rescind the approval of the letter at any time.

There was general agreement by Council to request that the Municipal Electric Authority of Georgia (MEAG) amend the First Amendment to the Declaration of Trust the Municipal Competitive Trust, specifically paragraph 6a, subparagraph C3 with language satisfactory to the city attorney.

(Clerk's Note: See agenda item 20061114)

Discussion was held regarding BLW agenda item 20061113 that deals with BLW Policy 5.7 Sewer Backups and Overflows in Homes and Businesses. BLW customer Clint Pollard and others presented a request for compensation due to losses and damages to property due to sewer back up on Leafwood Drive. After discussion the matter in Executive Session, the BLW Board approved a motion to amend BLW Policy 5.7, Sewer Backups and Overflows in Homes and Businesses, changing the customer relation payment amount to \$10,000, effective September 1, 2006.

Further discussion was held regarding the customer relation payment amount of \$10,000. The General Manager would be able to allocate up to \$10,000 to customers who suffers damages from sewer backups and overflows. The current policy states that up to \$2000 could be allocated. Board Attorney, Kevin Moore, mentioned that Council could approve or not approve that particular agenda item, but they could not modify the amount. The matter would go back to the BLW meeting next month for further discussion.

A motion was made by Council member Goldstein, seconded by Council member Pearlberg, to move the BLW Actions forward for approval on the consent agenda as a whole. The motion carried by the following vote:

Vote: 2 - 4 - 0

Failed

Voting Against: Annette Lewis, Van Pearlberg, Rev. Anthony Coleman and Philip M. Goldstein

A motion was made by Council member Goldstein, seconded by Council member Pearlberg, to move the BLW Actions forward for approval on the consent agenda, with the exception of agenda item 20061113. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

20061114 (MEAG) Municipal Competitive Trust/ First Amendment

Motion to request the Municipal Electric Authority of Georgia (MEAG) to amend the First Amendment to the Declaration of Trust the Municipal Competitive Trust, specifically paragraph 6a, subparagraph C3 with language satisfactory to the city attorney.

A motion was made by Council member Pearlberg, seconded by Council member Goldstein, that this matter was Recommended for Approval - Consent Agenda. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

20061112 MEAG

Discussion of MEAG Negotiation.

Discussion was held regarding a request by Council member Goldstein to be allowed the ability to negotiate directly with the Municipal Electric Authority of Georgia (MEAG) concerning the Plant Vogtle Expansion. There are two components the city must address; one is how much of the expansion project to buy into and the other is terms of the contract.

In depth discussion was held about Council member Goldstein's involvement in negotiations concerning the Plant Vogtle Expansion.

Motion to table this matter until the next Committee of the Whole meeting for further discussion.

A motion was made by Council member Chalfant, seconded by Council member Goldstein, that this matter be Tabled. The motion carried by the following vote:

Vote: 5 - 2 - 0

Tabled

Vote Against: Van Pearlberg and James W. King

20061040 Planning Commission request to expand Infill Development Ordinance

Discussion pertaining to proposed amendments to the Infill Development Ordinance.

Motion to authorize advertisement for amendments to the Infill Development Ordinance.

This matter was Recommended for Approval - Consent Agenda.

20061041 1994 SPLOST TIP SUMMARY

1995 SPLOST TIP SUMMARY

This matter was Received and Filed.

20061042 2005 SPLOST TIP SUMMARY

2005 TIP SUMMARY REPORT

This matter was Received and Filed.

20060942 Request for Property Exchange at North Marietta Parkway and North Fairground Street

Discussion of request for property exchange at North Marietta Parkway and North Fairground Street.

Discussion was held regarding the request to exchange property at the northeast corner of North Marietta Parkway and North Fairground Street by Ed Ruddell. A meeting was held between Council member Chalfant, the City Attorney and Mr. Ruddell's attorney and a revised Property Exchange Agreement was presented for review.

The following amendments were suggested:

-on page 2, the paragraph regarding Deed Restrictions should be deleted.

-on page 10, the first sentence should read, "Subsequent to all improvements being installed, prior to the exchange, a site plan shall be reviewed and approved by the Mayor and Council."

-on page 10, number 11 should read, "Elevation drawings of the proposed buildings..."

-on page 10, number 14 should read, "A conceptual landscaping plan." Items a-k would be deleted.

Motion to approve the Property Exchange Agreement with Ed Ruddell regarding the for property exchange at North Marietta Parkway and North Fairground Street as amended.

A motion was made by Council member Chalfant, seconded by Council member King, that this matter be Recommended for Approval as Amended - Consent Agenda. The motion carried by the following vote:

Vote: 7 - 0 - 0

**Recommended for Approval as Amended -
Consent Agenda**

20060943 Alexander Street Widening from Lawrence Street & Roswell Street

Construction costs and concept approval

(Clerk's Note: Council member Goldstein disclosed that he owns stock in Synovous, the company that owns the Charter bank located on the corner of Roswell Street and Alexander Street.)

Discussion was held regarding the Alexander Street Widening Project. The project is currently being designed in two sections. The first section is between Lawrence Street and Washington Avenue and the second section is between Washington Avenue and Roswell Street. Staff has recently received bids for construction of Alexander Street between Lawrence Street and Washington Avenue. The construction bids were much higher than the previous budget for this project due primarily to increases in construction costs for retaining walls.

Dan Conn mentioned that the Lemon Street Shoulder Widening project scope was revised by Council and has been completed with a remaining balance of \$1,129,463.45. If it is Council's desire to proceed with the Alexander Street Project between Washington Avenue and Lawrence Street, using the current bid the Public Works Department recommends re-allocating \$590,000 of the Lemon Street Shoulder Widening funds.

Motion to re-allocate \$590,000 from the Lemon Street Shoulder Widening project to complete the Alexander Street Widening project from Lawrence Street to Washington Avenue.

A motion was made by Council member Lewis, seconded by Council member Walquist, that this matter be Recommended for Approval as Stipulated - Consent Agenda. The motion carried by the following vote:

Vote: 7 - 0 - 0

**Recommended for Approval as Stipulated -
Consent Agenda**

Regarding Phase II of the Alexander Street Project, City Attorney Douglas Haynie mentioned that since the property owned by Synovous would not be affected, Council member Goldstein could participate in discussions.

Mr. Conn mentioned that the conceptual drawings of the second portion of Alexander Street between Washington Avenue and Roswell Street show that the construction of the widened section of Alexander Street with sidewalk would require the construction of retaining walls. The construction of these retaining walls would block access to the garage door located on the building owned by David E. Miller Jr. To maintain access to the garage door the grade of Alexander Street south of the garage door would need to be increased to lower the road in front of the garage door.

There was general agreement to direct staff to move forward with lowering the road to complete construction of Phase II of the Alexander Street Project between Washington Avenue and Roswell Street.

20061056 Sanitation Service Rate Schedule

Motion to approve the revised Sanitation Service Rate Schedule.

Discussion was held regarding the proposed Sanitation Service Rate Schedule revisions. The schedule has been revised to incorporate Roll-Cart service costs. Concern was expressed about the introduction of a 98 gallon roll carts. The cost of the 68-gallon roll cart would be \$19.50 and an additional cart would be an additional \$19.50. The cost of the 95-gallon cart to \$21.75 and an additional cart would be an additional \$21.75. This matter was also placed on the Council agenda recommended for approval.

This matter was Recommended for Approval - Consent Agenda.

20060944 Discussion of Model Stream Buffer Ordinance

Motion to adopt the Model Stream Buffer Protection Ordinance with the amendments presented in the document titled "Adopted by District 9/25/03".

Discussion was held regarding the Model Stream Buffer Ordinance provided by the North Georgia Water Planning District. The District has established a model ordinance related to stream buffer protection, stormwater quantity, quality, flood plain management, and litter control. The proposed Stream Buffer Protection Ordinance consists of a 50 ft. undisturbed buffer adjacent to each side of a stream and an additional 25 ft. impervious area setback in which no parking, buildings, driveways or other impervious items could be placed. These proposed buffers would overlap the existing 25 ft. state waters buffer required by the state; in essence creating areas where there will be the state buffer and a local buffer for the first 25 ft. from the stream.

A motion was made by Council member Walquist, seconded by Council member King, to adopt the Model Stream Buffer Ordinance as presented by the Metropolitan North Georgia Water Planning District.

Further discussion was held regarding language that appears in the City of Roswell's Ordinance and the ordinance that was review and amended last year titled "Adopted by District 9/25/03".

A substitute motion was made by Council member Goldstein, seconded by Council member Chalfant, to adopt the Model Stream Buffer Protection Ordinance with the amendments presented in the document titled "Adopted by District 9/25/03" including additional changes from the City of Roswell's Ordinance that benefit Marietta.

A substitute motion was made by Council member Chalfant, seconded by Council member Goldstein, to adopt the Model Stream Buffer Protection Ordinance with the amendments presented in the document titled "Adopted by District 9/25/03".

A substitute motion was made by Council member Walquist, seconded by Council member King, to adopt the Model Stream Buffer Ordinance as presented by the Metropolitan North Georgia Water Planning District, with a change under Section 4.2 Exemptions. Under number 1, the sixth item should read, "activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native non-invasive vegetation and bioengineering techniques are used." The motion carried by the following vote:

Vote: 2 - 4 - 1

Failed

Voting Against: Annette Lewis, Grif Chalfant, Van Pearlberg and Philip M. Goldstein

Abstaining: Rev. Anthony Coleman

The following substitute motion made earlier was then voted upon.

Substitute motion was made by Council member Chalfant, seconded by Council member Goldstein, to adopt the Model Stream Buffer Protection Ordinance with the amendments presented in the document titled "Adopted by District 9/25/03".

Council member Chalfant agreed to add the language under Section 4.2 Exemptions. Under number 1, the sixth item should read, "activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native non-invasive vegetation and bioengineering techniques are used.

A motion was made by Council member Chalfant, seconded by Council member Goldstein, that this matter be Recommended for Approval as Stipulated - Consent Agenda. The motion carried by the following vote:

Vote: 6 - 0 - 1

**Recommended for Approval as Stipulated -
Consent Agenda**

Abstain: 1 - Rev. Anthony Coleman

(Clerk's Note: A notation should be added to the council agenda to show Council member Coleman abstaining.)

20061074 Roadway Drainage Improvement Projects

Request for approval to proceed with roadway drainage improvement projects.

Discussion was held regarding the request to proceed with roadway drainage improvement projects. Staff presented a listing of several potential roadway drainage projects and an estimated cost for each. Also, included was a rating for each of the projects showing the priority based on public safety and damage to property.

Motion to proceed with roadway drainage improvement projects as presented.

A motion was made by Council member Pearlberg, seconded by Council member King, that this matter be Recommended for Approval - Consent Agenda. The

motion carried by the following vote:

Vote: 4 - 2 - 0

Recommended for Approval - Consent Agenda

Vote Against: 2 - Philip M. Goldstein and Rev. Anthony Coleman

Absent: Grif Chalfant

20061092 Review of the "Draft" City Council Agenda

Review of the draft agenda for the October 11, 2006 council meeting.

Review of the August 9, 2006 Draft Council Agenda.

The following amendments were made to the draft agenda:

- under Minutes: Agenda items 20060968 and 20061018 were added to the consent agenda.

-under City Council Appointments: Agenda item 20061069 was removed from page two, as it also appears on page three.

-under City Council Appointments: Agenda item 20061019 was added to the consent agenda.

-under Ordinances: Agenda item 20060592 should note that a public hearing is required.

-under Judicial/Legislative: Agenda item 20061040 was added to the consent agenda.

-under Other Business: The BLW Actions of October 9, 2006 remain on the consent agenda, with the exception of agenda item 20061113.

This matter was discussed.

20061109 Executive Session

Executive Session to discuss Personnel, Real Estate and or Legal Matters.

The motion was made in open session by Council member Walquist, seconded by Council member Pearlberg, to enter an Executive Session to discuss real estate matters.

The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

For: Annette Paige Lewis, Grif Chalfant, Holly Marie Walquist, Van Pearlberg, Rev. Anthony Coleman, James W. King, and Philip M. Goldstein

The Executive Session was held (the Chairman's affidavit is attached hereto as Attachment A).

A motion was made in open session by Council member Lewis, seconded by Council member Pearlberg, to close the Executive Session. The motion carried by the following vote:

Vote: 7 - 0 - 0

Held

For: Annette Paige Lewis, Grif Chalfant, Holly Marie Walquist, Van Pearlberg, Rev. Anthony Coleman, James W. King, and Philip M. Goldstein

ADJOURNMENT:

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Stephanie Guy, City Clerk

Approved: _____